

**REPORT TO PUBLIC SAFETY & REGULATORY SERVICES  
COMMITTEE ON TENANT REMEDIES ACTION (TRA) PILOT PROJECT**

**September 18, 2002**

**BACKGROUND**

Following direction from the Community Development Committee on February 20, 2001, staff of the City Attorney's Office, and the Inspections Division of the Regulatory Services Department proposed a tenant remedies action (TRA) pilot project to run from July 1, 2001, through August 31, 2001. This proposal was the result of review of current law and procedures as well as input from Legal Aid, the Tenants Union, Minnesota ACORN and Minnesota Multi-Family Housing Association. The City Attorney's Office and the Inspections Division also developed a Workplan containing 11 objectives the departments expected to accomplish to make the pilot project successful. Following a status report to the City Council in September, 2001, the TRA pilot project was extended through August 31, 2002.

The City Attorney's Office and the Inspections Division reported to this Committee on January 23, 2002, on the progress of the TRA Pilot Project, and received direction from this Committee as follows: 1) report back to this Committee by May, 2002 with a status report on the TRA pilot project; 2) refine the proposal of establishing a revolving fund to finance repairs to properties by court appointed administrators; 3) review the revolving fund proposal with the City's Finance Officer, develop internal procedures including roles and responsibilities for access to the fund and repayment of funds committed, and identify potential sources of funds; 4) draft an ordinance for first reading on February 1, 2002 and public hearing before Committee on February 20, 2002 (amended March 19, 2002); and 5) draft any necessary amendments to the Minneapolis Code of Ordinances Chapter 249 raising the cap on rehabilitation costs for "nuisance" properties.

The City Attorney's Office and the Inspections Division then reported to this Committee on March 27, 2002, on the progress made toward carrying out the direction received on January 23, 2002. At that time, this Committee further directed the City Attorney's Office and the Inspections Division to 1) continue to refine the proposal of establishing a revolving fund to finance repairs to properties by court appointed administrators; 2) continue to review the revolving fund proposal with the City's Finance Officer, and other appropriate City departments or agencies to develop internal procedures, including roles and responsibilities, for access to the fund, and repayment of funds committed, and identify potential sources of funds; and 3) to report to this Committee in May 2002, regarding the revolving fund proposal.

The City Attorney's Office and the Inspections Division subsequently reported to this Committee on June 26, 2002, on the progress made toward fulfilling the direction received on March 27, 2002. At that time, this Committee accepted the proposed revolving fund ordinance contained in MCO Chapter 244.185 and directed the City

Attorney's Office and the Inspections Division to 1) continue to refine the revolving fund proposal and to work with the City's Finance Officer, and other appropriate City departments or agencies, to develop an understanding of the internal procedures for operation of the fund; 2) to reconsider the proposed amendment of MCO Chapter 249.50(2), which would raise the cap on assessable rehabilitation costs in lieu of demolition and 3) to report to this Committee in September 2002 regarding the final results of the TRA Pilot Project.

Following is a status report on these matters, including an updated Workplan (Attachment A), a chart showing the relative effectiveness of TRAs versus prosecutions (Attachment B), and a list of TRA actions initiated to date by the City Attorney's Office (Attachment C).

## **STATUS**

### **SUMMARY OF TRA PILOT PROJECT**

The goal of a City-filed TRA is to maintain the safe, habitable housing stock in the City through targeted legal enforcement of the Code of Ordinances. Based on the data provided in Attachments B and C to this Report and experience gained over the course of more than one (1) year, the TRA has proven to be an extremely effective and efficient method of bringing rental property into compliance with the Housing Maintenance Code. It is the recommendation of the City Attorney's Office and the Inspections Division, therefore, that the TRA continue to be available indefinitely as an additional method of obtaining rental property compliance with the Housing Maintenance Code.

The TRA's many advantages over other methods of Code enforcement, such as criminal prosecution, became readily apparent over the course of the Pilot Project. These advantages are based on the TRA's nature as a civil action and the flexible approach to case resolution provided by the statute. The primary advantage is that compliance with the Housing Maintenance Code is assured because, in a civil action, the court will retain jurisdiction over the case until all work is complete. Therefore, regardless of whether the property has 3 outstanding repair orders or 40, or whether it is occupied or vacant, the court will retain jurisdiction until all the repairs are complete. By contrast, in a criminal case, the court does not retain jurisdiction over a case once a defendant has pled guilty and paid a fine. There is no guarantee, therefore, that the repairs at issue will be completed.

The other main advantage of the TRA over other Code enforcement mechanisms is that the TRA statute provides for a wide range of remedies in the event the work is not complete. Among other available remedies, continuing monetary sanctions and/or the appointment of an administrator provide significant financial incentive for the property owner to complete the work in a timely fashion. In addition, at the conclusion of the lawsuit, the City Attorney can request attorney's fees in every case. This award of fees allows the City to recoup some, if not all, of the expenditure of staff resources devoted to the property at issue.

The success in achieving the goal of maintaining the habitable housing stock in the City is evidenced by the fact that only six (6) condemnations due to a lack of maintenance occurred during the Pilot Project. The average number of condemnations per year due to a lack of maintenance prior to the beginning of the Pilot Project was 149.

### **ETRA RESPONSE TO UTILITY SHUT OFFS**

The City is continuing to pursue a further reduction in the number of condemnations by bringing Emergency Tenant Remedies Actions (ETRA's) against rental property owners with delinquent water accounts. The City currently uses the threat of water shut off as the primary method of enforcing collection of delinquent accounts. After the water is

shut off, the City is forced to condemn the building for lack of an essential service and the tenants are required to vacate.

In developing the ETRA response to delinquent water accounts, the City Attorney's Office has met twice with Council Member Zimmermann, Legal Aid, the Minnesota Tenants' Union, Inspections Division, and Utility Billing. Beginning with the week of August 26, 2002, the City Attorney's Office began mailing letters each week to rental property owners with delinquent accounts, facing pending shut offs, indicating that an ETRA will be filed if the account is not paid immediately. The Utility Billing Office reports that these letters alone have proven very effective in achieving payment of these accounts to date. Payment of the remaining delinquent accounts will be pursued through an ETRA. The court-ordered payment of the water bill via an ETRA will obviate the need for shutting off the water and then proceeding with condemnation. It will also allow the tenants to remain in the building.

## **REVOLVING FUND**

Minn. Stat. §504B.445, Subd. 4 (5), authorizes a court-appointed administrator to:

“petition the court, after notice to the parties, for an order allowing the administrator to receive funds made available for this purpose by the federal or state governing body or the municipality to the extent necessary to cover the costs [of materials, labor, and services necessary to remedy the violations] , and pay for them from funds derived from this source.”

“The municipality shall recover disbursements under clause 5 by special assessment on the real estate affected . . . [T]he assessment, interest, and any penalties shall be collected as are special assessments made for other purposes under state statute or municipal charter.”

Accordingly, the City's revolving fund ordinance contained in MCO Chapter 244.185, which received City Council approval in July 2002, states:

“The city attorney shall maintain a fund to be known as the housing maintenance code revolving repair fund for tenant remedies actions (hereinafter referred to as “the fund”). The fund may be drawn upon by administrators appointed by a court pursuant to Minn. Statute Section 504B.425(d) and in the manner prescribed by Minn. Statute Section 504B.445, Subd. 4(5). Any rental housing repairs effectuated through the use of the fund must serve to alleviate a condition or combination of conditions deemed to constitute an emergency, as that term is defined in section 244.40. Monies to perform such emergency repairs, including approved administrative expenses and fees, shall come from the fund. All costs and fees incurred by the court-appointed administrator, including appropriate interest, shall be recovered from the property owner. If the city attorney determines it is appropriate, disbursements from the fund

may be recovered through the special property tax assessment process. The assessment, interest, and any penalties shall be collected in the same manner as are special assessments made for other purposes under state statute or municipal charter. Repairs made pursuant to this section must comply with applicable state law and the Minneapolis Code of Ordinances in such a manner as to achieve minimum compliance with the housing maintenance code. Disbursements from the fund shall not be subject to the provisions and requirements of the procurement process of the City. This section shall only apply to tenant remedies actions involving the City of Minneapolis as a party.”

Pursuant to these provisions, a revolving fund for rental property emergency repairs by court-appointed administrators will be established. Monies so expended will be recovered from the property owner through special property tax assessments and once collected from the property owner, the funds will be placed back into the revolving fund. This section applies only to tenant remedies actions where the City of Minneapolis is a party. This section also establishes a waiver from the City’s procurement process so that the funds may be accessed by court-appointed administrators on an expedited basis.

The City Attorney’s Office and the Inspections Division have met with the Family Housing Fund’s Tenant Remedies Act Advisory Committee, to review the City’s TRA initiative. As previously reported to this Committee, the Family Housing Fund has approved a grant in the amount of \$200,000 to the City of Minneapolis to fund emergency repairs to properties by court-appointed administrators.

The City Attorney’s Office met with the Finance Office on two occasions to determine the appropriate accounting procedures necessary to establish and administer the revolving fund. The Finance Office is analyzing the procedure necessary for the City to accept the \$200,000 grant and for the City Attorney’s Office to appropriate funds for emergency repairs as needed. We await the Finance Office’s determination of how the City Attorney’s Office should proceed.

## **COURT APPOINTED ADMINISTRATORS**

As previously reported to this Committee, the City Attorney met with Hennepin County District Court Chief Judge Kevin Burke to advise the court of the City’s TRA initiative. Also, the City Attorney’s Office met with Housing Court Referee Tom Haeg to discuss the City’s TRA initiative. Both Chief Judge Burke and Referee Haeg have expressed support for this initiative.

The City Attorney’s Office has met on four occasions with representatives of Legal Aid, Minnesota ACORN, Minnesota Multi-Family Housing Association, Project 504, and members of the Family Housing Fund Tenants’ Remedies Act Advisory Committee to discuss court appointed administrators. The purpose of this collaboration is to design criteria for selection as a court-appointed administrator and to compile a list of

individuals and/or entities that would be willing and qualified to serve as administrators. We have drafted a list of selection criteria that include the following:

- Compliance with statutory criteria of Minn. Stat. §504B.445;
- Familiarity with Minn. Stat. §504B, et seq. and the TRA process in general;
- Five (5) or more years property management experience (varies according to size of building);
- Proof of workers' compensation and general liability insurance;
- Availability for appointment as administrator;
- Interested in serving as court-appointed administrator;
- Experience with and knowledge associated with working with low income tenants, and the various sources of rent streams;
- Working knowledge of federally-assisted housing;
- Staff available to assign to properties that may be highly distressed; and
- Working knowledge of City's housing, building and permitting code and requirements.

We have discussed these criteria with the representatives of the groups listed above and we are compiling a list of proposed administrators, to whom solicitation letters will be sent seeking their interest in serving as administrators. We anticipate sending these letters to proposed administrators as soon as the procedure for administering the revolving fund is established by the Finance Department.

#### **PROPOSED AMENDMENT OF MCO CHAPTER 249.50(C)**

As directed by the City Council, the City Attorney's Office and the Inspections Division reviewed MCO Chapter 249.50, which allows the City to rehabilitate a building found to be a nuisance and assess the cost against the property. The ordinance currently limits the rehabilitation cost to no more than the cost to demolish the building. While we considered a proposed amendment to raise the assessable cost to 50% of the after-rehab market value, no process exists that would allow the City to rehabilitate properties pursuant to this ordinance. Therefore, we are not recommending amendment of this ordinance at this time.